THE HONOURABLE SRI JUSTICE GODA RAGHURAM
AND
THE HONOURABLE SRI JUSTICE S.ANANDA REDDY

WRIT PETITION NO. 8178 OF 2006

Between:

V. Raghava Rao

… Petitioner

And :

High Court of AP, Hyderabad,
rep by its Registrar (Vigilance)

… Respondent

THE HONOURABLE SRI JUSTICE GODA RAGHURAM
AND
THE HONOURABLE SRI JUSTICE S.ANANDA REDDY

WRIT PETITION NO. 8178 OF 2006

ORAL ORDER: (Per GR,J)

The petitioner assails the proceedings dated.23-12-2003, 08-09-2005 and 28-10-2005.

After entering service as a Junior Assistant in the APJMS the petitioner earned promotions eventually to the rank of a Superintendent, a post since re-designated as Administrative Officer in Category-I, Division I of A.P. Judicial Ministerial Service Rules.

In February-1989 he was appointed temporarily under Rule.11(3)(i) of A.P. State Judicial Service Rules by transfer as District Munsif (Junior Civil Judge). In terms of the appointment and in terms of Rule.11(3)(2) a person appointed as District Munsif is not to be treated as probationer nor is entitled to continue in the post by virtue of the

temporary appointment and is also terminable from the said post without any rights or lien in the post. In 1990 the petitioner was admittedly reverted as a Superintendent to his substantive post. He was reappointed again on a temporary tenure as a District Munsif in August-1990 and served as such till 23-12-2003 on which date he was reverted as an Administrative Officer.

While he was serving as a District Munsif on a temporary tenure as aforesaid, the I Additional District Judge, Kadapa had reported that the petitioner as a Junior Civil Judge, Lakkireddipalli had committed certain irregularities and illegalities. On 19-08-2003 the petitioner was called upon to submit his explanation to the report against him. He submitted his explanation on 09-09-2003. Thereafter the High Court on 17-01-2004 framed seven (7) articles of charge after initiating a disciplinary enquiry against the petitioner in respect of these charges of misconduct and appointing an Enquiry Officer. The Enquiry Officer submitted his report on 18-04-2005 holding charge Nos.1, 3, 5 and 7 as proved and as charge Nos.2,4 and 6 as not proved. The petitioner was also furnished a copy of enquiry report. The petitioner submitted his explanation thereto on 22-07-2005. Thereafter the respondent issued the proceedings dated.08-09-2005. By these proceedings the further pursuit of the departmental enquiry was eschewed and it was decided that the petitioner should not be posted as a Judicial Officer again. The petitioner preferred an appeal to the High Court on 13-10-2005, which was rejected by the order dated.28-10-2005.

As the petitioner stood reverted as an Administrative Officer in 2003 and had attained the age of superannuation he has retired from service. Even otherwise as the appointment of the petitioner to the post of District Munsif/Junior Civil Judge was merely a temporary appointment his age of superannuation in the substantive post of Administrative Officer is 58 years and that is the date on which he would have otherwise retired.

The petitioner contends that the order of the respondent dated.08-09-2005 and 28-10-2005 directing that he be not posted as a Judicial Officer again and rejecting his appeal is illegal. The petitioner contends that age of retirement and the other service conditions of a District Munsif are higher than that of an Administrative Officer and therefore the direction in the order dated.08-09-2005 not to post him as a Judicial Officer amounts to reduction in rank. He also contends that when the disciplinary proceedings initiated against him have been dropped the respondent acted illegally and without justification in directing that he be not posted as a Judicial Officer.

A counter-affidavit is filed by the respondent. It is the case of the respondent that the petitioner's appointment as a District Munsif either in 1989 or in 1990 was only under Rule.11(3)(i) of the A.P. State Judicial Service Rules; a purely temporary appointment in the exigency of service and the petitioner had no right either as a probationer or in any other status to continue in the post. On a overall assessment of the record of the petitioner's service, the Administrative Committee of the High Court at a meeting held on 17-12-2003 resolved to recall the petitioner and two other officers similarly situate, whose performance was not up to the mark. Consequently by proceedings dated.23-12-2003 the respondent recalled the petitioner to his parent department and posted him as an Administrative Officer in the District Court, Mahaboobnagar. After the receipt of the report in the disciplinary enquiry initiated against the petitioner, the Administrative Committee of the High Court at a meeting held on 28-06-2005 called for the comments of the petitioner on the findings in the enquiry report. After considering the petitioner's representation the Administrative Committee at a meeting held on 30-08-2005 while resolving to drop further proceedings in the enquiry; also resolved not to post the petitioner again as Judicial Officer in future. Consequently proceedings dated.08-09-2005 were communicated. The counter

clearly adopts the position that the petitioner's recall to his substantive post as an Administrative Officer from the temporary tenure as a Judicial Officer does not amount to reduction in rank.

The writ petition is devoid of merits. The petitioner was temporarily appointed to perform the functions of a District Munsif/Junior Civil Judge in the exigency of service, on a purely temporary tenure, without any right to continue in the post. It was not a regular appointment by transfer. Though departmental proceedings were initiated, on a holistic consideration of the matter, the respondent decided not to pursue the enquiry against the petitioner. On an overall assessment of his performance in the temporary tenure as a Judicial Officer, the respondent found the petitioner unsuitable for being assigned judicial work and accordingly decided not to post him as Judicial Officer in future. That decision is not a decision that impinges on the petitioner's integrity. It is only an assessment of the petitioner's competence to even temporarily perform functions as a judicial officer. There is no stigmatization of the petitioner. Under the Andhra Pradesh State Judicial Service Rules recruitment to the post of a Junior Civil Judge whether by of Direct Recruitment or Recruitment by Transfer is purely a selection process. In the case on hand the petitioner was not even selected for regular appointment to hold the post of a District Munsif/Junior Civil Judge. In the considered view of the respondent the petitioner was unsuitable to perform judicial functions and therefore it was decided not to post him as Judicial Officer.

In the facts and circumstances of this case and on the legal principles involved no case is made out for grant of relief in the writ petition. The writ petition is accordingly dismissed. No order as to costs.

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GODA RAGHURAM,J

19TH SEPTEMBER 2007

TSNR/PVSN

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S.ANANDA REDDY,J